

## Overview of Hawai'i's Proposal for an ACA State Innovation Waiver

One of the fundamental purposes of the Affordable Care Act is to increase access to care by ensuring that U.S. residents have meaningful health insurance. Hawai'i agrees that insurance is important. To that end, the state expanded its Medicaid program and developed ACA-compliant state-based insurance exchanges for individuals and small businesses. Our state-based exchanges struggled in the face of Hawai'i's small number of uninsured residents and have made significant structural changes as a result.

Hawai'i's success in having few uninsured residents is due in large part to the state's unique, long-standing employer mandate. As detailed in this proposal, Hawai'i's private sector workforce has enjoyed progressive health coverage policy since 1974 when the Hawai'i Prepaid Health Care Act ("Prepaid") went into effect. Prepaid, both simpler and more sweeping than the ACA, covers 62.5% of Hawai'i's population and has shaped Hawai'i's health insurance landscape in numerous positive ways.

Among Prepaid's requirements:

- Private employers with even a single permanent employee must provide coverage.
- Permanent employees are eligible for coverage if they work 20 hours or more per week.
- The actuarial value of Prepaid plans averages 90%, and may not dip below 80%.
- Employee contributions for employee-only premiums cannot exceed 1.5% of wages, and out-of-pocket costs for deductibles and co-pays are less than permitted under the ACA.

**Hawai'i is seeking a waiver of ACA provisions that are inconsistent with Prepaid's requirements and those that would add unnecessarily to the cost of insurance.**

ACA Provisions to be Waived in Hawai'i Proposal	
<b>§1301(a)(1)(C)(ii) requires silver level QHP</b>	Waiver sought for employer-sponsored insurance because the actuarial value of Prepaid plans must be gold or platinum.
<b>§1301(a)(2) requires co-ops and multi-state plans</b>	Waiver is sought because such plans would be less likely to meet Prepaid requirements and, being headquartered out of state, would be harder to regulate and monitor.
<b>§1304 (b)(4)(D)(i) and (ii) addresses continuation of participation for growing small employers</b>	This provision would be moot under Hawai'i's proposal to waive SHOP.
<b>§1311 (b)(1)(B) requires establishment of SHOP Exchange</b>	Waiver is sought because small businesses purchase insurance outside of SHOP now, are uninterested in using it in future, and building and maintaining it would add costs without benefits.
<b>§1311 (f)(3)(B) identifies authorized exchange entities</b>	Waiver is sought to authorize state agencies other than Medicaid to carry out individual exchange responsibilities.
<b>§1312 (a)(2) requires employee choice</b>	Waiver is sought because the benefit to do so is modest while the cost of creating a system to support it is high.
<b>§1312 (f)(2)(A) defines "qualified employer"</b>	Waiver is sought because, if SHOP is waived, there will be no such "qualified employer."

**Hawai'i does not seek to waive any other provisions of the ACA in this proposal. Notably, the state expects to maintain QHPs, EHBs, out-of-pocket limits, tax credits that make individual coverage affordable, and individual and employer responsibilities.**

## Assurances

Hawai'i's proposed waiver intends to preserve and strengthen the employee protections provided by the state's Prepaid Health Care Act. Prepaid sets a higher bar for employer-sponsored insurance than does the ACA. Its coverage, benefits, and costs to employees apply to all regardless of income, age, race and ethnicity, or any other demographic characteristic. Hawai'i does not seek to waive any aspect of the ACA that would diminish access to meaningful, affordable insurance for any resident and does not contemplate changes to the Medicaid program or individual exchange with this proposal.

The State of Hawai'i provides the following assurances:

- A. **Comparable Coverage.** The State's proposed waiver meets the "comparability" test in that there will be no decrease in the number of Hawai'i residents covered, nor will there be any changes in coverage for vulnerable populations by coverage category, health status, age, geographic location, or any other demographic characteristic due to the waiver.
- B. **Affordability.** The State's proposed waiver meets the "affordability" test in that it will not change the cost of health care coverage for state residents, on average, nor will it result in any differences in affordability for individuals with large health care spending burdens, for vulnerable groups, or at-risk populations. There will be no pre- and post-waiver differences in net out-of-pocket expenses, deductibles, co-pays, co-insurance, or premium contributions.
- C. **Comprehensiveness.** The State's proposed waiver will retain the scope of benefits for the affected program and population, including requiring the provision of the ten essential health benefits, as identified in the state-selected benchmark plan. It will not result in a decrease in the number of individuals with coverage that meets the EHB requirements or in any way diminish benefits currently provided by Medicaid or employers.
- D. **Deficit Neutrality.** The State's proposed waiver will result in no increased spending or administrative or other expenses to the federal government, nor will it reduce federal income, payroll or excise tax, or any other revenue.
- E. **Pass-Through Funding.** The State's proposed waiver requests no pass-through funding.
- F. **Effect on Federally-Facilitated Exchanges.** The State's proposed waiver requests no consideration of any kind for state-specific changes to federally-facilitated exchanges or marketplaces.
- G. **Public Input.** The State's proposed waiver has been publicly posted, public hearings have been held, and public comment has been solicited in compliance with 31 CFR 33.112 and 45 CFR 155.1312. Postings on-line meet national standards to assure access to individuals with disabilities.

## Proposal Summary

The proposal details the items highlighted below:

**Impact if Waiver is not Granted.** Since Hawai'i's waiver proposal seeks to assert the continued authority of Prepaid for employers, failure would result in ambiguity and possible challenges to the system that has served Hawai'i so well for so long. Based on our experience, rebuilding an ACA-compliant SHOP would be expensive and take a long time to perfect, only to be sparsely used by employers. If, instead, Hawai'i used the federally-facilitated exchange, Prepaid could be undermined by employers that purchase non-Prepaid compliant plans or entirely disregard their responsibilities under State law. Without Prepaid:

- Small employers in Hawai'i might not provide employee coverage and many of those employees would get subsidies through the individual marketplace
- Low income employees currently covered by employers might instead qualify for and be covered by federally-funded Medicaid benefits
- More employees would become uninsured and under-insured
- Uncompensated care would increase, resulting in economic stress to individuals and to the medical system

**Characteristics of Hawai'i and its Health Insurance Market.** 62.5% of Hawai'i's population is covered by employer-sponsored insurance that meets Prepaid standards. The uninsured population is estimated to be 5% and the individual market is 11%. The balance of the population is covered by Medicaid, Medicare, and Tricare or Military coverage.

**Description of Waiver Program and Post-Waiver Marketplace.** The long-standing Prepaid Marketplace regulates insurance for small and large employers. Responsibilities are shared between the state Department of Labor and Industrial Relations, which oversees compliance with Prepaid, and the Department of Commerce and Consumer Affairs' Insurance Division, which regulates insurers and provides transparent information about premiums and benefits. The waiver will not change:

- The current insurance marketplace
- The ability of residents to obtain coverage out of state
- The number of employers offering coverage or employees covered

**Administrative Burden.** There is no increased burden associated with the proposed waiver but, significantly, if a waiver is **not** granted both Hawai'i and the federal government will be faced with greater administrative burdens.

**Affected Populations.** Prepaid affects all private employers and their employees, who reflect Hawai'i's diverse demographic, educational, socio-economic, and geographic population.

**Effect on ACA Sections NOT Waived.** No effect is expected.

**Comparability of Benefits.** The proposed waiver would not affect Prepaid's robust benefits or cost burdens for consumers.

**Budget Neutrality.** The proposed waiver will not cost the federal government more nor reduce its revenues. The opposite could result if a waiver is not granted.